



W.P.No.20576 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	03.02.2023
Pronounced on	16.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20576 of 2019

P.Thangaraju

... Petitioner

Vs.

1.The Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram.

2.The Superintendent of Police,
Kancheepuram District.

3.The Additional Chief Secretary
to Government,
Home (Police II) Department,
Fort St. George, Chennai-600 009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorarified Mandamus, calling for the records of the third respondent in connection with the impugned orders passed by him in G.O. 2(D) No.309, Home (Police II) Department dated 23.10.2017 and confirmed in G.O. (D) No.1370, Home (Police-IV) Department dated 19.11.2020, quash the same and direct the respondents to reinstate the



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petitioner into service and grant him all consequential service and grant him all consequential service and monetary benefits.

(Prayer amended vide order dated 16.09.20122 made in WMP.23958 of 2022 in W.P.20576 of 2019 by AQJ).

For Petitioner : Mr.R.Venkataramani, Sr. Counsel
for Mr. M.Muthappan

For Respondents : Mr.D.Gopal, GA

O R D E R

Heard Mr. R.Venkataramani, learned Senior Counsel for the petitioner and Mr. D.Gopal, learned counsel appearing for the respondents.

2. On the basis of the proven charges under the charge memo dated 03.01.2017, the petitioner was imposed with the punishment of 'compulsory retirement' by the third respondent herein, through his order in G.O. 2(D) No.309, Home (Police II) Department dated 23.10.2017 dated 23.10.2017. As against the order of punishment, he had preferred a statutory appeal to the third respondent herein on 16.11.2017. Since the appeal was not considered in time, he had preferred the present Writ Petition.



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3. Pending the Writ Petition, the petitioner's appeal came to be rejected by the third respondent herein, through G.O. (D) No.1370, Home (Police-IV) Department, dated 19.11.2020. Accordingly, the original prayer has been amended, whereby the petitioner seeks to quash the order passed in the appeal also.

4. A perusal of the order in appeal, would reveal that the consideration of the grounds raised by the petitioner have been made in the following manner:-

"4. The Government have examined the petition of Thiru. P. Thangaraj (Compulsorily Retired), formerly Inspector of Police, Athur Police Station, Salem District carefully and independently along with the relevant records. There is no merit that warrants further intervention."

5. Apparently, the order-in-appeal has not addressed any of the grounds raised by the petitioner. Rule 6 of the Tamil Nadu Police Subordinate Service (Discipline and Appeal) Rules, 1955 [hereinafter referred to as "TNPSS (D & A) Rules"], stipulates the mode in which the



Appellate Authority is mandated to consider the appeal against the orders of the Disciplinary Authority. The said Rule 6 reads as hereunder:

"Rule 6. (1) In the case of an appeal against an order imposing any penalty specified in Rule 2, the Appellate Authority shall consider:

(a) Whether the facts on which the order was based have been established;

(b) Whether the facts established afford sufficient ground for taking action; and

(c) Whether the penalty is excessive, adequate or inadequate and after such consideration, shall pass orders.

(i) confirming, enhancing, reducing or setting aside the penalty; or

(ii) remitting the case to the authority which imposed the penalty or to any other authority with such directing, as it may deem, fit in the circumstances of the case:"

6. Thus, it is seen that the Appellate Authority, while considering the appeal imposing penalty, should apply their mind on the aforesaid aspect and pass appropriate speaking orders. In the instant case, the third respondent herein, while passing the order dated 19.11.2020, had made a cryptic order, without following the guidelines stipulated under



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Rule 6 of the aforesaid Rules and rejected the appeal in a single line stating that the petition has been examined carefully and independently along with the relevant records and there is no merits in the appeal and hence, he is not inclined to interfere with the orders of the Disciplinary Authority.

7. Apparently, the order is a non-speaking order and since being in violation of Rule 6 of the TNPSS (D & A) Rules, the order itself would stand vitiated. As such, it would be appropriate to remit back the matter to the third respondent herein for fresh consideration.

8. In view of such decision taken, this Court had consciously refrained from addressing any of the grounds raised by the petitioner herein, challenging the original order of punishment.

9. In the light of the above discussions, the impugned order of the third respondent dated 19.11.2020, is set aside and the appeal is remitted back to the third respondent herein for a fresh consideration. The third respondent shall adhere to the procedure contemplated under Rule 6 of the TNPSS (D & A) Rules and pass a speaking order, within a period of three months from the date of receipt of a copy of this order.



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10. In view of remand of the appeal to the third respondent for a fresh consideration, no interference is required to the impugned order passed by the third respondent in G.O. 2(D) No.309, Home (Police II) Department, dated 23.10.2017. The Writ Petition stands partly allowed. There shall be no order as to costs.

16.02.2023

Internet : Yes
Order : Speaking
Neutral Citation : Yes

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To

- 1.The Deputy Inspector General of Police,
Kancheepuram Range, Kancheepuram.
- 2.The Superintendent of Police,
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- 3.The Additional Chief Secretary
to Government,
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M.S.RAMESH,J.

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ORDER MADE IN
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16.02.2023